REMARKS

Claims 1, 3, 8, 10, 11, 15 and 20 have been amended. Marked-up versions of amended claims 1, 3, 8, 10, 11, 15 and 20 are attached hereto as APPENDIX A. The claims have been amended without prejudice or disclaimer to the subject matter recited therein and solely for the purposes of furthering the prosecution of the application. Applicant reserves the right to pursue the original claims and other claims in this application and in other applications.

The drawings stand objected to because they fail to show the plastic material in cross section and because figures 5 and 6 fail to provide cross hatching in the cross sectional views. Proposed drawings changes are being filed concurrently herewith to address these objections. Accordingly, the objections should be withdrawn.

The Examiner has requested a new title. Pursuant to the Examiner's request, the title has been amended to include at least one technical or inventive feature of the invention.

Claim 20 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Claim 20 has been amended. The amendment addresses the concerns raised in the Office action. Accordingly, the rejection should be withdrawn and claim 20 allowed.

Claims 1-6, 8-13, and 15-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Maki. The rejection is respectfully traversed.

Prior to this amendment, claim 1 recited a safety closure having an outer cap and an inner cap. The outer cap comprises "a first top wall and a first cylindrical skirt." An inner surface of said first top wall has "a plurality of lugs radially disposed thereon." The inner cap comprises "a second top wall and a second cylindrical skirt." A "plurality of recesses are radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt." According to claim 1 (pre-amendment), the recesses and lugs are "configured such that said lugs are received by at least some of said recesses when said outer cap is turned in a closure application direction." In addition, the recesses and lugs are "further configured such that said lugs are not received by said recesses when said outer cap is turned in a closure opening direction unless a downward force is applied to said outer cap."

Applicant respectfully submits that the closure disclosed by Maki does not have the recited lugs and recesses and thus, Maki does not disclose or suggest all of the elements recited in claim 1. For example, the Maki closure uses teeth 34 that are shaped to always engage not true corresponding knurlings 24 regardless of the direction its overcap 26 is turned (see FIGS. 1 and 2). Contrary to the claimed invention, the Maki closure would not be child resistant without a mechanism to separate the knurlings 24 from the teeth 34 when the overcap 26 is turned in the closure opening direction. The Maki closure requires a series of flexible filaments 36 to keep the overcap 26 separated from the lower cap 16. The separation is

maintained until a downward force is applied to the overcap 26 (Col. 2, lines 33 to 58). The invention recited in claim 1 has lugs and recesses that are configured such that the recesses do not engage the lugs (without a downward force) in the closure opening direction and thus, does not require separators. Additionally, the claimed invention requires only the lugs and recesses to be child resistant.

Furthermore, the Maki closure operates differently than the claimed invention. For example, the claimed invention uses recesses and lugs, which are configured such that the closure can be applied to a container without the use of downward force. This occurs because the shape of the recesses and lugs are such that the recesses engage the lugs when the outer cap is rotated in an application closure direction. Maki, because it uses flexible filaments 36, maintains the separation between the overcap 26 and lower cap 10 during the closure application and removal directions. That is, a downward force is required to both apply and remove the Maki closure (Col. 2, lines 48 to 58).

In addition, as noted in applicant's specification, the use of flexible separators, such as the Maki filaments 36, is undesirable because they often lose their resiliency over time, which can cause the closure to lose its child resistant feature (Specification page 10, line 4 to page 11, line 2). Because the claimed invention only uses recesses and lugs and does not use flexible fingers/filaments, it does not lose its child resistant capability, which is a problem with prior art closures like the Maki closure. Thus, claim 1 (prior to this amendment) is believed to be allowable over Maki.

In any event, claim 1 has been amended to clarify that it is the shape of the recesses and lugs that provide the child resistant feature of the claimed invention. In addition, the manner in which the lugs are engaged by the recesses has been clarified as well as the force required to open the closure. Applicant respectfully submits that claim 1 is allowable over Maki. Claims 2-6 depend from claim 1 and are allowable along with claim 1. In addition, claims 8-13 and 15-19 recite similar limitations as discussed above and are allowable for at least the reasons set forth above and on their own merits. Accordingly the rejection should be withdrawn and the claims allowed.

Claims 1-6, 8-13, and 15-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gargione. The rejection is respectfully traversed.

As noted above, before this amendment claim 1 recited a safety closure having an outer cap and an inner cap. The outer cap comprises "a first top wall and a first cylindrical skirt." An inner surface of said first top wall has "a plurality of lugs radially disposed thereon." The inner cap comprises "a second top wall and a second cylindrical skirt." A "plurality of recesses are radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt." According to claim 1 (pre-amendment), the recesses and lugs are "configured such that said lugs are received by at least some of said recesses when said outer cap is turned in a closure application direction." In addition, the recesses and lugs are "further configured such that said lugs are not received by said recesses when said outer cap is turned in a closure opening direction unless a downward force is applied to said outer cap."

Applicant respectfully submits that the closure disclosed by Gargione does not teach or suggest these claim limitations. For example, the Gargione closure does not use lugs and recesses when applying the closure. Instead, the Gargione closure uses an entirely different structure. The Gargione inner cap 4 has a skirt 12 with flexible fingers 13 mounted to it. A skirt 11 of the Gargione outer cap 5 has teeth 14 that are designed to engage the fingers 13 when the outer cap 5 is rotated in the closure application direction (Col. 2, lines 39 to 60). Lugs and recesses are not used.

Moreover, the same fingers 13 are used to separate the inner cap 4 from the outer cap 5. According to Gargione, the "outer cap 5 is normally spaced upwardly from the inner cap 4 by the biasing force of the flexible fingers 13" (Col. 2, line 61 to Col. 3, line 3). The separation is required, because the Gargione closure uses rigid fingers 15 and teeth 16 that engage each other when the outer cap 5 is rotated in the closure opening direction (Col. 2, line 39 to Col. 3, line 8). Thus, due to the shape of the fingers 15 and teeth 16, the Gargione closure would not be child resistant without the flexible fingers. As noted above, the invention recited in claim 1 does not use flexible fingers or filaments to maintain separation between its inner and outer caps and thus, has a different structure than the Gargione closure. Furthermore, the claimed invention requires only the lugs and recesses to be child resistant.

In addition, the Gargione closure operates differently than the claimed invention. Gargione uses flexible fingers 13 and teeth 14 to apply the closure, but uses rigid fingers 15 and teeth 16 to remove the closure (Col. 2, line 39 to Col. 3, line 8). The claimed invention

uses recesses and lugs to both apply and remove the recited closure. This is another difference between the invention recited in claim 1 and Gargione.

For at least the reasons set forth above, claim is allowable over Gargione. Claims 2-6 depend from claim 1 and are allowable along with claim 1. Claims 8-13 and 15-19 recite similar limitations as discussed above and are allowable for at least the reasons set forth above and on their own merits. Accordingly the rejection should be withdrawn and the claims allowed.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Maki in view of Friedenthal. The rejection is respectfully traversed.

Claim 7 depends from claim 1 and claim 14 depends from claim 8. As noted above, Maki does not teach or disclose all of the elements of claims 1 and 8. Applicant respectfully submits that Friedenthal fails to do so as well. Friedenthal has been cited merely for disclosing a beveled edge. However, since Friedenthal does not have the recited lugs and recesses, the cited combination fails to teach or suggest all of the elements of claims 1 and 8 and dependent claims 7 and 14. Accordingly the rejection should be withdrawn and the claims allowed.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gargione in view of Minh. The rejection is respectfully traversed.

Claim 20 depends from claim 15. As noted above, Gargione does not teach or disclose all of the elements of claims 15. Applicant respectfully submits that Minh fails to do so as well. Minh has been cited merely for disclosing indicia on its top cap. However, since Minh does not have the recited lugs and recesses, the cited combination fails to teach or suggest all of the elements of claims 15 and dependent claim 20. Accordingly the rejection should be withdrawn and claims 20 allowed.

Claims 3, 10 and 11 have been amended solely for consistency purposes and not to overcome any prior art.

In view of the foregoing, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: June 21, 2001

Respectfully submitted,

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APPENDIX A

Version With Markings to Show Changes Made

1. (Amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, an inner surface of said first top wall having a plurality of lugs radially disposed thereon; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt,

[wherein] said recesses [are] and lugs being shaped [configured] such that said lugs are [received] engaged by at least some of said recesses when said outer cap is turned in a closure application direction causing said closure to be applied to a container, said recesses and lugs being [are] further [configured] shaped such that said lugs are not [received] engaged by said recesses when said outer cap is turned in a closure opening direction unless a [downward] force urging said outer cap towards said inner cap is applied to said outer cap, and when the [downward] force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are [received] engaged by said recesses allowing said inner cap to be rotated and removed from the container.

3. (Amended) The closure of claim 1, wherein said recesses comprise an inclined wall and said lugs slide up said inclined walls when said outer cap is turned in the closure opening direction and the [downward] force is not being applied to the outer cap.

8. (Amended) A child resistant safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are formed on an outer surface of said second top wall,

[wherein] said recesses and lugs [are] being shaped [configured] such that said lugs are [received] engaged by at least some of said recesses when said outer cap is turned in a closure application direction, said recesses and lugs being [are] further shaped [configured] such that said lugs are not [received] engaged by said recesses when said outer cap is turned in a closure opening direction unless a [downward] force urging said outer cap towards said inner cap is simultaneously applied to said outer cap.

10 (Amended). The closure of claim 9, wherein said recesses comprise an inclined wall and said lugs slide up said inclined walls when said outer cap is turned in the closure opening direction and the [downward] force is not being applied to the outer cap.

11. (Amended) The closure of claim 8, wherein said recesses comprise an inclined wall and said lugs slide up said inclined walls when the [downward] force is not being applied to the outer cap.

15. (Amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed and formed at an intersection of said second top wall and said second cylindrical skirt, each of said recesses comprise a vertical wall and an inclined wall,

[wherein] said lugs [act on] and recesses are shaped such that they are engaged by said vertical walls when said outer cap is turned in a closure application direction and said lugs slide up said inclined walls when said outer cap is turned in a closure opening direction and a [downward] force urging said outer cap towards said inner cap is not being applied to the outer cap.

20. (Amended) The closure of claim 15, wherein an outer surface of said first top wall comprises indicia for providing operating instructions to a user of said closure.